



London N. Breed
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Executive Director

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**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD**

Tuesday, October 11, 2022
at 6:00 p.m.

Remote Meeting via video and teleconferencing
<https://bit.ly/3SETj5z>

Public Comment Dial In Number: (415) 655-0001 / Access Code: 2488 860 7498

On February 25, 2020, Mayor London Breed declared a state of emergency in regards to COVID-19. Thereafter, Governor Newsom issued a statewide order for all residents to shelter-in-place, and following that, numerous orders of the county health officer and supplemental Mayoral proclamations and directives were issued to slow and reduce the spread of COVID-19.

In several Mayoral proclamations and memorandums, the Mayor and City Attorney detailed emergency orders suspending select laws applicable to boards, commissions, and other policy bodies, and permitting boards and commissions to meet, so long as the meetings are held remotely. Additionally, at its September 13, 2022 meeting, the Rent Board Commission made findings to allow teleconferenced meetings under California Government Code Section 54953(e). Therefore, the Rent Board Commission meetings will be held via videoconferencing and will allow for remote public comment until further notice.

The Commission strongly encourages interested parties to submit their comments in writing, by 12:00 noon on October 11, 2022 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3SETj5z>. The public comment call in instructions are available on the Rent Board's website at <https://sfrb.org/commission-meetings>.

Please visit the Rent Board's website for ongoing updates during the COVID-19 emergency.

I. Call to Order

President Gruber called the meeting to order at 6:08 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

Commissioner Mosbrucker read the Ramaytush Ohlone Land Acknowledgment.

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III. Roll Call

Commissioners Present: Crow; Gruber; Hung; Mosbrucker; Qian;
Sawney; Tom; Wasserman.

Commissioners Not Present: Haley; Klein.

Staff Present: Brandon; Flores; Hu; Koomas; Varner; Xu.

IV. Approval of the Minutes

MSC: To approve the minutes of September 13, 2022.
(Wasserman/Sawney: 6-0, Mosbrucker and Qian abstained)

V. Remarks from the Public

A. Laura Campbell, the attorney for the landlord at 125 Clayton Street, #11 (AL220038) stated that the landlord was unrepresented at the hearing and misunderstood the procedural posture of the hearing. She stated that because of that misunderstanding, the landlord did not submit all relevant evidence, which has now been submitted on appeal.

VI. Consideration of Appeals

A. 3314 Balboa Street, #3

AL220035

The tenant's petition claiming an unlawful rent increase was granted and the landlords were found liable to the tenant in the amount of \$14,248.51 for rent overpayments. On appeal, the landlords argue that for the period of time when the tenant's rent history is unknown, the lawful rent should be recalculated in the light most favorable to the landlord.

MSC: To accept the appeal and remand the case on the record for the ALJ to recalculate the current lawful base rent and appropriate rent refund, construing the evidence in the light most favorable to the landlord, in order to issue a decision on remand.
(Wasserman/Gruber: 4-1; Mosbrucker dissenting)

B. 1600 Clement Street, #201

AL220036

The tenant's petition alleging decreased housing services was granted, and the landlords were found liable to the tenant in the amount of \$3,200.00 for a lack of heat over a period of 32 months. On appeal, the landlords argue in part that a rent reduction should not have been granted for a 13-month period when the tenant made no complaints about the heating system.

MSC: To deny the appeal.
(Mosbrucker/Qian: 5-0)

C. 623 Natoma Street, #A

AL220037

The tenant's petition claiming an unlawful rent increase was granted and the landlords were found liable to the tenant in the amount of \$16,563.17 for rent overpayments. On appeal, the landlords argue in part that they should not be liable for unlawful rent increases imposed by the prior owner and that the tenant should be required to submit additional proof of rent payments.

MSC: To deny the appeal.
(Mosbrucker/Qian: 5-0)

D. 125 Clayton Street, #11

AL220038

The tenant's petition alleging decreased housing services was granted, and the landlord was found liable to the tenant in the amount of \$2,100.00 for the landlord's failure to reasonably respond to the tenant's noise complaints. On appeal, the landlord argues that it was denied due process because it was unable to present unspecified evidence at the hearing, and that the landlord's representative was confused regarding the arbitration process.

MSC: To deny the appeal.
(Mosbrucker/Qian: 5-0)

E. 580 Goettingen Street, Downstairs Unit

AL220039

The tenant's petition claiming an unlawful rent increase was granted and the landlords were found liable to the tenant in the amount of \$4,091.76 for rent overpayments. On appeal, the landlords argue that because the rent increases were within 0.5% of the lawful amount and were given in good faith, the ALJ should have recalculated the increase to reflect the proper percentage, instead of disallowing the increase in its entirety.

MSC: To deny the appeal.
(Mosbrucker/Qian: 5-0)

V. Remarks from the Public (cont.)

A. An unidentified representative for the landlords at 580 Goettingen Street, Downstairs Unit (AL220039) asked the Board to explain under what circumstances the "good faith" exception would apply, since the landlords' rent increases were all within 0.5% of the allowable increase but the ALJ found that the good faith exception was not applicable.

B. Sophie Lau, the landlord at 1600 Clement Street, #201 (AL220036), stated that the tenant prefers to walk around in a T-shirt and shorts all year around and expects the building's heating system to adjust to his preferences. She stated that other tenants have complained that the building is too hot. She stated that the boiler is checked regularly and is working "fine". She states that she offered to give the tenant a portable or wall heater, but he declined. She also said that the tenant continues to complain about a lack of heat but will not allow the landlords to install a wall heater in his unit.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Articles from the San Francisco Public Press and KQED.

B. Memo to the Board regarding the Parental Leave Policy.

VIII. Director's Report

A. Rent Board Operations Update During COVID-19 Health Emergency

Executive Director Varner told the Board that the office remains open to the public at reduced hours for the past month, in line with City guidance and still with support from the public, and that phone counseling line remains open to the public and busy, with the hours of 9:00 a.m. – 12 noon and 1:00 p.m. – 4:00 p.m., Monday through Friday, excluding holidays. She said that staff continue to work on a hybrid basis both at home and in the office. Executive Director Varner explained that staff continue to work with DPW Architecture and Bureau of Building Repair regarding the work on the 6th & 7th floor suites.

Executive Director Varner told the Board that in regards to the Housing Inventory and Rent Board Fee, staff are working on the next phase for small property owners to report into the Inventory this fall. She said that the Housing Inventory reporting deadline for all properties is March 1, 2023, and that a notice will be mailed out at the end of October to all property owners informing them of their requirement to report into the Housing Inventory, their anticipated March 1 Rent Board Fee obligation, how to request an exemption of the Rent Board fee if they believe they should be exempt, and how to report into the Housing Inventory.

She explained that in regards to the Rent Board Fee, the Notice of Delinquent 21-22 Rent Board Fee was sent to property owners who have not paid their 21-22 Fee, giving them 30 days to pay with the late penalties. Director Varner explained that if any delinquent owner then does not pay, the Rent Board will refer the delinquent fee obligation to the City's Bureau of Delinquent Revenue, where any delinquent owners will be charged a commission on top of the outstanding fee and late penalties.

Director Varner gave a short update in regards to legislation, firstly telling the Board that Board of Supervisors (BOS) File No. 211202, which authorizes the construction of "Bonus Dwelling Units" on certain lots, provided those newly constructed units are offered for rent at affordable rates and remain subject to the rent increase limitations of the Rent Ordinance, and was at the Land Use and Transportation Committee appears to have been tabled indefinitely. She told the Board that BOS File No. 221021, which would make changes to the Planning Code's HOME-SF Program (Home Ownership Means Equity – San Francisco). The HOME-SF Program allows density bonuses and zoning code modifications to new development projects that agree to provide certain amounts of affordable housing. This legislation would expand the HOME-SF program to projects that agree to subject the residential units in the development to rent control under the Rent Ordinance instead of providing additional on-site affordable units.

Director Varner lastly informed the Board that Ordinance No. 18-22, which became effective on March 14, 2022, requires landlords pursuing certain types of evictions to first provide the tenant a written 10-day warning letter and an opportunity to cure. She reported that the San Francisco Apartment Association and Small Property Owners of San Francisco Institute filed a lawsuit challenging the legislation and on July 22, 2022, the Court issued its decision, which granted the petitioners' challenge in part, preventing the City from enforcing the legislation solely with respect to evictions based on the nonpayment of rent, and the City filed a Notice of Appeal on September 26, 2022.

Director Varner introduced and welcomed new Operations and Finance Manager Catherine Xu, and new Rent Board Specialist JianHui (Fai) Hu. She told the Board that Catherine is the manager of the Housing Inventory & Rent Board Fee Unit, and comes to the Rent Board from the PUC, and before that she worked for DPW and the Sheriff's Department. Director Varner explained that Catherine has a great amount of City experience in HR, purchasing and contracting, budgeting and analysis, as well as Cantonese and Mandarin language skills, and has degrees in mathematics, business, library and information science, and a recent MBA. Fai will be working in the Public Information Unit, is a graduate of SF State, most recently worked at Self Help for the Elderly in their Housing Program, and is fluent in Cantonese. The Board welcomed Catherine and Fai.

Finally, Director Varner discussed a few items that Commissioner Sawney had brought forward, including providing reports to the Commissioners, making the Annual Statistical Report available once published, introduction of new staff, and digital distribution of meeting material. In regards to the digital distribution of meeting material, most of the Commissioners indicated that they preferred to receive their meeting materials in some sort of digital format. Director Varner agreed that staff would research the issue and bring it back to the Board for further discussion.

IX. Old Business

A. AB 361, Mayoral Directive, and Future Remote Commission Meetings

Executive Director Varner stated that during previous Board Meetings, the Commissioners made findings to allow teleconferenced meetings pursuant to California Government Code 54953(e), and that the Commissions must make a similar finding at least once every 30 days to continue having teleconferenced meetings. After Executive Director Varner read the Board's findings into the record, Commissioner Wasserman made a motion, seconded by Commissioner Gruber, to make a resolution making findings to allow a teleconferenced meeting on November 8, 2022 pursuant to California Government Code 54953(e). (Wasserman/Gruber: 8-0)

X. New Business

A. Parental Leave Policy for Boards, Commissions, and Advisory Bodies

Senior Administrative Law Judge (SALJ) Joey Koomas began the discussion by stating that the Board of Supervisors adopted an ordinance in October of 2021 that established a Parental Leave Policy for members of appointive City boards, commissions, and advisory bodies, which is codified in SF Administrative Code Chapter 67B. He explained that the ordinance allows

Commissioners to take leave in certain situations, including when a member is caring for a newborn child or after the placement of a child for adoption or foster care.

SALJ Koomas also explained that the ordinance requires each board, commission, and advisory body to add the City's Parental Leave Policy to its "rules of order or other similar document" and to share a copy of the policy with each member. He stated that because the Rent Board's Commission has no separate governing bylaws, the Board might consider codification of the Parental Leave Policy in Rules and Regulations Part 2 (Board Organization and Procedures) and referred to his written memorandum with suggested language.

SALJ Koomas explained that in order to incorporate the City's Parental Leave Policy into the Rent Board's Rules and Regulations, the Board would have to hold a public hearing to invite public comment on the proposed amendments. The Commissioners then agreed to continue the discussion as Old Business at the next Board Meeting.

XI. Calendar Items

November 8, 2022 – remote meeting via WebEx Events

A. Consideration of Appeals

8 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Qian.

XII. Adjournment

President Gruber adjourned the meeting at 7:50 p.m.